
Appeal Decision

Site visit made on 26 November 2019

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 December 2019

Appeal Ref: APP/Z5060/D/19/3236375

93a Lillechurch Road, Dagenham RM8 2BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Henry Afolabi Akinduro against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/00691/FUL, dated 16 April 2019, was refused by notice dated 12 June 2019.
 - The development proposed is erection of outbuilding in rear garden for use as granny annexe.
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Decision

1. The appeal is allowed and planning permission is granted for erection of outbuilding in rear garden for use as granny annexe at 93a Lillechurch Road, Dagenham RM8 2BY in accordance with the terms of the application, Ref 19/00691/FUL, dated 16 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The external walls of the building hereby permitted shall be finished in painted render.
 - 3) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 93a Lillechurch Road, Dagenham RM8 2BY.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan; 93ALC/PP/010; 93ALC/PP/011; and 93ALC/PP/012.

Preliminary Matter

2. The description of development shown on the Council's decision notice and the appellant's appeal form is more precise than the description shown on the planning application form and I have therefore used it in the banner heading and the decision.

Main Issue

3. The main issue is whether the proposed development would be ancillary to the main dwelling.

Reasons

4. The appeal property is a 2 storey end-of-terrace house which is located in an established residential area. The rear garden includes 2 existing outbuildings adjacent to the rear boundary, which would be removed to accommodate the proposed outbuilding. There is a pathway to the side of the dwelling which provides external access to the rear garden from the front of the house.
5. The guidance in paragraph 5.7.3 of the Residential Extensions and Alterations Supplementary Planning Document ('SPD') states, among other things, that outbuildings must be ancillary or related to the use of the property as a dwelling and any unrelated use will normally be refused.
6. In respect of determining whether an annex would be ancillary to the main dwelling, the judge in *Uttlesford DC v SSE & White [1992]* considered that, even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree. In that case the accommodation gave the occupant the facilities of a self-contained unit although it was intended to function as an annex with the occupant sharing her living activity in company with family in the main dwelling. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.
7. In the case of the current appeal, the appellant states that the proposed annex would be occupied by his elderly mother-in-law. The annex would not provide kitchen or laundry facilities and therefore the occupant would be dependant on the facilities of the main dwelling. Given that the annex would be occupied by a member of the appellant's family, it would be used as part of the same household.
8. Furthermore, the size of the proposed outbuilding would be modest and it would be subservient to the main dwelling. There would not be a separate access to the annex and it would be within the same curtilage. Moreover, the appellant states that the annex would be served by the same services and utilities as the main house. Taking these factors into account, the proposed annex would be ancillary to the main dwelling and would not create a separate planning unit.
9. The Council has raised concerns that movement between the annex and the main dwelling could be restricted and there is no evidence of how suitable access between the buildings could be achieved. Nevertheless, the proposed outbuilding would be around 11.5 metres from the main dwelling which is a short distance. The topography of the appeal site is relatively flat and there is a garden path that would link the annex to the main dwelling.
10. For the above reasons, I conclude that the proposed development would be ancillary to the main dwelling. The proposal would therefore comply with Policy BP8 of the Barking & Dagenham Borough Wide Development Policies Development Plan Document 2011 and guidance in the SPD, which amongst other things, state that all developments are expected to have regard to the local character of the area.

Conditions

11. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is for the avoidance of doubt and in the interests of certainty. In order to maintain the character and appearance of the surrounding area, I have imposed a condition requiring the external walls of the development to be finished in painted render.
12. Furthermore, I have attached a condition to require that the building shall only be occupied for purposes ancillary to the residential use of the main dwelling, to protect the character of the area.
13. I am satisfied that these conditions are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.

Conclusion

14. For the above reasons, and having had regard to all other matters, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR